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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/623,008	08/24/2000	Carlos Ernesto Koster	ASA-101	5469

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EXAMINER

CHORBAJI, MONZER R

ART UNIT

PAPER NUMBER

1744

9

DATE MAILED: 05/23/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/623,008

Applicant(s)

KOSTER, CARLOS ERNESTO

Examiner

MONZER R CHORBAJI

Art Unit

1744

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 19 February 2002.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1,3 and 5 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,3 and 5 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413) Paper No(s) \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

### DETAILED ACTION

This non-final office action is in response to the amendment received on all

#### ***Claim Rejections - 35 USC***

1. The following is a quotation of invention is not identically disclosed or described as set differences between the subject matter sought to be patented and subject matter as a whole would have been obvious at the time the obviousness rejection made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

3. Claims 1, 3, and 5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Banks et al (U.S.P.N. 5,300,265) in view of Fiorenzano, Jr. (U.S.P.N. 5,326,543).

With respect to claims 1, 3, and 5, Banks et al discloses a method for the treatment of goods with carbon dioxide and nitrogen (col.1, lines 44-46 and col.5, lines 36-40) at a location of goods (col.5, lines 53-55) by washing (col.1, lines 54-56), filtering (figure 1, 12 and 13), cooling (figure 1, 7 or 9 or 10), and catalyzing of other gas sources (figure 1, 3 and 5). Furthermore, Banks teaches that the exhaust of any engine can be used (abstract, lines 1-2 and col.4, lines 62-64). However, Banks fails to disclose explicitly the use of the exhaust of ships or boilers. Fiorenzano, Jr. discloses the use of

nitrogen and carbon dioxide gases to treat goods located in ships (col.1, lines 14-15 and lines 43-47). Furthermore, Fiorenzano, Jr. does not specify any type of ship, and then ships that utilize motive power are included. However, a boiler is an integral part of a motive power. Thus, a person having ordinary skill in the art of treating goods would have been motivated to utilize the teachings of Banks to Fiorenzano, Jr. so that the storage of large quantities of agricultural products as on a ship is preserved (Fiorenzano, Jr., col.1, lines (16-18)).

***Response to Arguments***

4. Applicant's arguments with respect to claims 1, 3, and 5 have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

5. The prior art made of record but not relied upon is considered pertinent to applicant's disclosure. Johnson et al (U.S.P.N. 4,874,585) teaches of treating the exhaust of a boiler. Fox et al (U.S.P.N. 5,163,361) of treating the holds of ships. Meyer (U.S.P.N. 3,955,932) teaches the process of generating nitrogen and carbon dioxide.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to MONZER R CHORBAJI whose telephone number is (703) 305-3605. The examiner can normally be reached on M-F 8:30-5:00.

7. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, ROBERT J WARDEN can be reached on (703) 308-2920. The fax phone numbers for the organization where this application or proceeding is assigned are (703)

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305-3599 for regular communications and (703) 305-7719 for After Final communications.

8. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0661.

Monzer R. Chorbaji *MRC*  
Patent Examiner  
AU 1744  
May 19 2002

*Robert J. Warden, Sr.*  
ROBERT J. WARDEN, SR.  
SUPERVISORY PATENT EXAMINER  
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